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Good afternoon Senator Cabrera, Representative Wood and members of the Insurance and Real Estate Committee, I would like to express my support for HB 6619, AN ACT CONCERNING BANNING PAY FOR DELAY.

This legislation would ban "pay for delay" agreements between name brand pharmaceutical companies and potential generic makers. Under these contracts, the potential generic manufacturer receives a benefit for not producing a generic product. Often this process begins with the name brand company filing a patent infringement suit against the generic company and the suit then produces a settlement that includes a pay for delay contract under which the branded pharmaceutical company pays the generic company to keep its generic pharmaceutical off the market for a period of time. Thus, under this scheme, the generic maker whose business is supposed to be manufacturing lower cost generic alternatives instead receives a profit for not manufacturing anything. The branded company retains its status as the sole manufacturer and can continue to charge an inflated price.

This practice would seem anti-competitive on its face and this bill would create a presumption that such contracts are anti-competitive (and thus illegal) unless the parties

can prove otherwise. According to a 2010 Federal Trade Commission study, pay for delay contracts were estimated to cost patients \$3.5 billion every year.¹ In 2019, California became the first state in the nation to ban these pay for delay contracts². Rep. Jim Wood, a sponsor of the California measure, noted that the pay for delay contracts result "in a loss for patients who deserve access to less expensive drugs and for all of us who end up paying more for health care and, in turn, health care premiums." As our constituents continue to face hardships caused by the high price of prescriptions drugs and the unaffordability of health insurance premiums we must do all we can to address these issues. This legislation would be a meaningful step toward lowering prescription drug prices in our state.

¹ <https://www.ftc.gov/sites/default/files/documents/reports/pay-delay-how-drug-company-pay-offs-cost-consumers-billions-federal-trade-commission-staff-study/100112payfordelayrpt.pdf>

² <https://yubanet.com/california/ca-enacts-first-in-the-nation-law-to-combat-pay-for-delay-agreements-that-inflate-drug-prices/>